

Campaign Contribution Limits for Recall Petition Signatures

Citizens for Clean Government v. San Diego
(*Napoleon A. Jones, Jr., S.D. Cal. 3:03-cv-1215*)

On Thursday, June 19, 2003, a committee of concerned citizens published a notice of intent to circulate recall petitions against a member of San Diego’s city council.¹ On June 20, the committee filed a federal complaint in the Southern District of California challenging as a First Amendment violation San Diego’s individual contribution limits for the recall effort.² With its complaint, the committee filed an application for a temporary restraining order.³

On behalf of District Judge Napoleon A. Jones, Jr., Magistrate Judge Roger C. McKee issued a briefing order on June 23 setting argument for July 1.⁴ At the hearing, Judge Jones granted a June 30 motion to intervene by supporters of the incumbent.⁵

On July 3, Judge Jones denied the committee immediate injunctive relief.⁶ Concluding that “the recall process must be treated as a candidate campaign,” Judge Jones observed that “it is well-established under federal law that governments may enact candidate campaign contribution limits such that First Amendment freedoms remain intact.”⁷ The recall campaign did not obtain enough signatures for the ballot.⁸ On November 14, the court of appeals, in an interlocutory appeal, affirmed Judge Jones’s ruling.⁹

On July 23, 2004, one month after Judge Roger T. Benitez joined the bench, the case was transferred to him.¹⁰ On October 5, 2004, Judge Benitez approved a

1. *Citizens for Clean Gov’t v. San Diego*, 474 F.3d 647, 649 (9th Cir. 2007); *Opinion* at 2, *Citizens for Clean Gov’t v. San Diego*, No. 3:03-cv-1215 (S.D. Cal. July 7, 2003), D.E. 22; *see Complaint* at 2–3, *id.* (June 20, 2003), D.E. 1.

2. *Complaint*, *supra* note 1; *Citizens for Clean Gov’t*, 474 F.3d at 649.

3. *Temporary Restraining Order Application*, *Citizens for Clean Gov’t*, No. 3:03-cv-1215 (S.D. Cal. June 20, 2003), D.E. 3.

4. *Order*, *id.* (June 24, 2003), D.E. 8.

Judge Jones died on December 12, 2009. Federal Judicial Center Biographical Directory of Federal Judges, <http://www.fjc.gov/history/home.nsf/page/judges.html>.

5. *Order*, *Citizens for Clean Gov’t*, No. 3:03-cv-1215 (S.D. Cal. July 3, 2003), D.E. 21; *Minutes*, *id.* (July 1, 2003), D.E. 20; *see Intervention Motion*, *id.* (June 30, 2003), D.E. 12.

6. *Opinion*, *supra* note 1 (noting, “Because Defendant was notified of Plaintiff’s motion and afforded an opportunity to respond, the Court will treat the TRO application as a motion for a preliminary injunction.”); *Citizens for Clean Gov’t*, 474 F.3d at 649–50.

7. *Opinion*, *supra* note 1, at 6–7.

8. *Citizens for Clean Gov’t*, 474 F.3d at 650.

9. *Citizens for Clean Gov’t v. San Diego*, 81 F. App’x 240 (9th Cir. 2003); *Citizens for Clean Gov’t*, 474 F.3d at 650.

10. *Transfer Order*, *Citizens for Clean Gov’t*, No. 3:03-cv-1215 (S.D. Cal. July 23, 2004), D.E. 40.

stipulated and appealable final judgment.¹¹ The incumbent was reelected in 2004.¹²

On January 19, 2007, the court of appeals decided that Judge Jones erred by deciding, apparently as a matter of law, that the City had a sufficient interest justifying the application of its contribution limits to the signature-gathering phase of a recall election. We hold that the City must provide evidence demonstrating a sufficiently important government interest, such as the risk of corruption, in this context.¹³

Judge Benitez granted a stipulated dismissal on October 15, 2008.¹⁴

11. *Stipulated Judgment*, *id.* (Oct. 6, 2004), D.E. 45; *Citizens for Clean Gov't*, 474 F.3d at 650.

12. *Citizens for Clean Gov't*, 474 F.3d at 650.

13. *Id.*

14. *Order*, *Citizens for Clean Gov't*, No. 3:03-cv-1215 (S.D. Cal. Oct. 16, 2008), D.E. 88 (noting that the parties agreed to the “payment of certain sums by the City to Plaintiff”).